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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 SHAWN RAYMOND PETREE,

9 Plaintiff,

10 v.

11 CHASE BANK,

12 Defendant.
13

CASE NO. MC12-5025BHS

ORDER DISMISSING
AFFIDAVIT AND CLOSING
CASE

14 This matter comes before the Court on Plaintiff Shawn Raymond Petree's
15 ("Petree") administrative affidavit (Dkt. 1).

16 On April 24, 2012, Petree filed the affidavit "for the purpose of remedy and relief
17 of the fraudulent claim(s)" that Defendant Chase Bank ("Chase") has apparently asserted
18 against Petree regarding a secured transaction. *Id.* Petree asserts that Chase has twenty-
19 one days to cure the violations or damages will be assessed against Chase in the amount
20 of one million dollars per violation. *Id.*

21 If the court determines at any time that it lacks subject-matter jurisdiction, the
22 court must dismiss the action. Fed. R. Civ. P. 12(h)(3). In this case, Petree has failed to

1 allege that the Court has jurisdiction over his administrative affidavit, and the Court is
2 unable to otherwise determine the basis for jurisdiction. Therefore, the Court must
3 dismiss this action.

4 Additionally, a federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P.
5 12(b)(6) when it is clear that the plaintiff has not stated a claim upon which relief may be
6 granted. *See Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (“A trial
7 court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6).... Such a dismissal
8 may be made without notice where the claimant cannot possibly win relief.”). *See also*
9 *Mallard v. United States Dist. Court*, 490 U.S. 296, 307-08 (1989) (there is little doubt a
10 federal court would have the power to dismiss frivolous complaint *sua sponte*, even in
11 absence of an express statutory provision). A complaint is frivolous when it has no
12 arguable basis in law or fact. *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

13 In this case, Petree’s affidavit is frivolous because it has no arguable basis in law
14 or fact. Therefore, the Court also dismisses the affidavit for failure to state a claim.

15 **IT IS SO ORDERED.**

16 Dated this 7th day of May, 2012.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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